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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/766,922 | 01/22/2001 | Robert M. Hussey | 283-280 | 1246 |

7590 04/21/2004

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EXAMINER

GRANT II, JEROME

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2626

DATE MAILED: 04/21/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/766,922 | HUSSEY | |
| | Examiner | Art Unit | |
| | Jerome Grant II | 2626 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-17 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9,11,14,18-20,22,23,25,27,29 and 30 is/are rejected.
- 7) ☒ Claim(s) 3-5,8,10,12,13,21,24,26 and 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

JEROME GRANT II
PRIMARY EXAMINER

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>10</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-4, 9, 14, 18-20, 25 and 29 rejected under 35 U.S.C. 102(a) as being anticipated by JP 200092317 (Yoshioki).

With respect to claim 1, Japanese Document JP2000092317 (317) teaches a method for operating an optical reader (scanner 14) having an image sensor (CCD), said method comprising the steps of: auto setup engine 136 for clocking out at east one frame of image data in a low resolution frame clock out mode of operation; reading pixel values (lines 3-4 of the Abstract Text) from said at least one frame clocked out in said low resolution clock out mode to determine an operating parameter (correction parameter, according to line 5 of the Abstract Text); and utilizing said operating

Art Unit: 2626

parameter (correction parameter) in operating said reader (to image processor 126 within the reader).

With respect to claim 2, (317) teaches the claimed feature as set forth by the first four lines of the Abstract Text.

With respect to claims 9 and 25, this limitation is inherent based upon the correction value being used to correct the image due to deterioration and changes in the environment (lighting).

With respect to claim 14, the 317 document teaches plural frames read out which would encompass 3.

With respect to claims 3, 4 and 18, the 317 document refers to reading in both the high and low resolution modes. When the apparatus reads in the low resolution mode (pre-scanning mode), not all of the pixel data in the image is picked up by the sensor element (i.e. pixel resolution is based on the number of pixels with respect to a predefined square area). This occurs when the pixels are read at a higher clock speed in a pre-scanning mode where the resolution is coarse or low and the acquisition of data not as critical in comparison with a high resolution mode. Hence, the claimed limitations are inherent since by the term low resolution the same sensor is used for both high and low resolution scanning. For high resolution, on the other hand, substantially more or most of the pixels from the sensor are picked up.

Art Unit: 2626

With respect to claim 19, the 317 document teaches an optical reader 14 comprising: an image assembly having an image sensor (CCD); a controller (set up engine 136) , wherein the controller is adapted to clock out low resolution frame data and from this data an operating parameter (correction parameter) is determined and wherein said controller is adapted to utilize said operating parameter in the operating reader (to image processor 126 of the reader).

With respect to claim 20, see the first four lines of the Abstract Text.

With respect to claim 29, see the illumination assembly 48, 49 shown by figure 3.

2.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, 11, 22, 23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Yoshioki 317) in view of Tamama (683).

With respect to claims 6 and 22, the (317) document teaches all of the subject matter upon which this claim depends, including a correction parameter which reads on

the operating parameter. What is not specifically provided by the 317 document is the exposure parameter as claimed.

Tamama teaches a correction parameter as an exposure value based on data read out at a certain frame rate. Refers to line 3 of paragraph 562 of Tamama.

Since, the 317 document and Tamama are both directed toward reading image data sensed by a sensor means at a particular frame rate, the purpose of using the frame data to find a parameter for correcting the exposure would have been recognized by the 317 document as set forth by Tamama. Moreover, the 317 document uses the parameter to correct for deterioration and environmental aberrations in the image obtained from the sensor. Hence, the exposure value is a type of environmental parameter which would have been contemplated by the 317 document although it did not specifically state exposure.

It would have been obvious to one of ordinary skill in the art that correction data according to the 317 document would include exposure data as is well known in the art or would have been obvious to use exposure data as referred to by Tamama at paragraph 562.

With respect to claims 7, 11, 23 and 27, it is not clear from the 317 document that there is a specific recitation of illumination intensity. However, the illumination intensity is both an environmental issue as well as one impacting the deterioration of an image. While the 317 document does not specifically state illumination value as a parameter, this limitation is suggested by Tamama with respect

Art Unit: 2626

to paragraph 562 line 3 where exposure of the image, which includes the illumination intensity, would have been contemplated.

Since, the 317 document and Tamama are both directed toward reading image data sensed by a sensor means at a particular frame rate, the purpose of using the frame data to find a parameter for illumination intensity values (exposure/ white balance) would have been recognized by the 317 document as set forth by Tamama. Moreover, the 317 document uses the parameter to correct for deterioration and environmental aberrations in the image obtained from the sensor. Hence, the exposure value is a type of environmental parameter which would have been contemplated by the 317 document although it did not specifically state illumination intensity.

It would have been obvious to one of ordinary skill in the art that correction data according to the 317 document would include exposure data as is well known in the art or would have been obvious to use exposure data as referred to by Tamama at paragraph 562.

3. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese document 2000092317 in view of the well known prior art.

Document 317 teaches the illumination assembly with light means 48. It is not clear if the light means consists of three LEDs or not. However, applicant has not set forth a reason why three LEDs provides a better alternative than any other lighting assembly. Hence, the two types of assemblies are interchangeable and would have

Art Unit: 2626

been obvious to one of ordinary skill in the art to replace the three LED assembly in place of that shown by the 317 document for illuminating an image to be scanned.

4.

Claims 5, 8, 10, 12, 13, 21, 24, 26 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5.

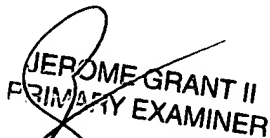
Claims Allowed

Claims 15-17 are allowed for the reason the prior art does not teach or suggest in claimed combination, "... clocking out electrical signals corresponding to some pixel values of said image sensor at a higher than normal clock out rate so that an overall frame clock out rate is increased."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Grant II whose telephone number is 703-305-4391. The examiner can normally be reached on Mon.-Fri. from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A. Williams, can be reached on (703) 305-4863. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.


JEROME GRANT II
PRIMARY EXAMINER

J. Grant II